



भारत का याजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं 10] नई दिल्ली, शुक्रवार, अप्रैल 27, 2012/ वैशाख 7, 1934 (शक)
No. 10] NEW DELHI, FRIDAY, APRIL 27, 2012/VAISAKHA 7, 1934 (SAKA)

इस भाग में चिन्ह पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 27th April, 2012:—

I

BILL No. LXI OF 2011

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2011.

Short title and
Commencement

(2) It shall come into force at once.

2. In the Tenth Schedule to the Constitution of India, after sub-paragraph (a) of paragraph 2, the following proviso shall be inserted, namely:—

Amendment
of Tenth
Schedule.

“Provided that if a member of a House makes derogatory or defamatory statement with respect to the political party to which he belongs and/or makes derogatory and defamatory statement with respect to the key office-bearers of the party, thereby undermining the prestige of the party in the eyes of the public or otherwise conducts in a manner indicating that he has severed his relationship with the party, such member shall be deemed to have voluntarily given up membership of his party.”

STATEMENT OF OBJECTS AND REASONS

The Tenth Schedule to the Constitution, which is popularly known as "anti-defection" law has been amended to ban defection of Members of Parliament and State Assemblies and Councils. Undoubtedly, menace of defection has been curbed to a great extent on account of the amendment. But, there are those who do not hesitate to betray the political parties on the pedestal of which they have built their careers. As the law stands today, if a member of a political party defies the directions given to the member in favour of the proposal of the party in respective Houses, no doubt, the member can be disqualified.

However, if the member openly associates with other political parties and/or citizens, the political party of which he/she is a member or makes defamatory allegation against its office bearers or other leaders, the political party cannot take any action except to expel such member from the party. In this case, the Member becomes an unattached member of the concerned House. He becomes a free bird, retaining his membership, all facilities attached to it with full freedom to criticise the political party of which he/she was a member until recently, openly, to utter embarrassment of the party.

It is, therefore, necessary that the Tenth Schedule should be further amended to disqualify all the members who openly associate with other political parties and/or openly criticise the party, its office bearers and other leaders with defamatory statements. Such actions on the part of a member of a political party amounts to voluntary giving up membership of that political party and should be treated as such.

It is, therefore, that the proposed amendment provides that if a member of a House makes derogatory or defamatory statement with respect to the political party which had sent the member as its candidates and/or makes derogatory and defamatory statement with respect to the key office-bearers of the party, thereby undermining the prestige of the party in the eyes of the members of the public or otherwise conduct in a manner indicating that he has severed his relationship with the party, such member shall be deemed to have voluntarily given up membership of his party.

Hence this Bill.

SHANTARAM NAIK

II**BILL No. LXIII OF 2011**

A Bill further to amend the Passports Act, 1967.

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

- | | |
|--|---|
| <p>1. (1) This Act may be called the Passports (Amendment) Act, 2011.</p> <p>(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.</p> <p>2. In section 5 of the Passport Act 1967, in sub-section (2), after clause (c) the following proviso shall be inserted, namely:—</p> <p style="padding-left: 2em;">“Provided that the passport authority shall not refuse to issue passport to an applicant claiming to be an Indian citizen without making an inquiry and without perusing documents produced by the applicant, and shall, in case the authority is not satisfied with the documents produced by the applicant, visit the area where the applicant resides and record the statements of persons in the neighbourhood of the applicant, and also take on record evidence in the form of affidavits, if produced by the applicant, with respect to the place of birth and death of applicant's parents, duration of applicant's stay in India, education, marriage, employment and other details, before making any order regarding the application to grant the passport”.</p> | <p>Short title and Commencement.</p> <p>Amendment of section 5 of Act 15 of 1967.</p> |
|--|---|

STATEMENT OF OBJECTS AND REASONS

Right to obtain a passport has been recognised as a part of the fundamental right, which is inherent in article 21 of the Constitution of India Courts of law have, elaborately, laid emphasis on this right. Besides, the world is becoming a global village and free flow of people, money, material and ideas across the globe is gaining momentum.

However, getting a passport document for the rich and affluent poses no problem. But, a large section of people from the lower and middle income groups, who propose to go to foreign countries for employment or otherwise, especially to visit their near and dear ones do not get proper hearing in the offices of Passport Authorities. These officers adopt a straight jacket formula, which result in harassment of the applicants seeking passports.

There are many cases in which those who were abroad came back to India at an age, when they were children but have no passport in their possession. They are not aware of the passports that were issued to their parents or about the passport issued to him or her as a child. Now, if any of these people apply for passport, the Passport Authority insists on the production of their earlier passport documents.

In fact, it is the duty of the Passport Authorities to make necessary inquiry and ascertain the facts in the absence of passport document. If there be other evidence to prove the nationality of the persons concerned, the Passport Authorities should not arbitrarily refuse to issue passport documents. The Bill therefore seeks to amend section 5 of the Passport Act, 1967 to make it mandatory for passport authorities to take all the evidence that a person applying for passport may produce and also provides that the Passport Authority should visit the locality where the Applicant resides to ascertain the facts instead of arbitrarily denying passports to the people.

SHANTARAM NAIK

III

BILL No. LXII OF 2011

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2011.

Short title and commencement.

(2) It shall come into force, at once.

2. In the article 371-I of the Constitution the following proviso shall be inserted, namely,—

Amendment of Article 371-I.

"Provided that notwithstanding anything contained in this Constitution or in any other law for the time being in force or in any judgement or order, the Legislative Assembly of Goa shall be competent to enact any legislation—

(i) to regulate ownership and transfer of land in the State of Goa in public interest and in the interest and on grounds of duration of residence in the State, social, economic and environment needs of the State, and such other public interest, as may be specified by the State by law;

(ii) to regulate influx of migrants considering available resources specially land, water, power, etc. and sanitation also and environmental aspects; and

(iii) to opt for any of the two types of panchayats from village, intermediate and district level.

STATEMENT OF OBJECTS AND REASONS

Land is becoming a scarce resource more particularly in small States. Land mafia as well as foreigners are landing in States like Goa with tons of money buying huge areas creating social and economic chaos. Some of the buyers have the potential to buy a whole village in a smaller State like Goa. Persons engaged in real estate in the country too, are resorting to similar purchases and disturbing the social fabric in the State.

Rights existing under the Constitution should not be so unfettered so as to change economic scenario of a smaller State particularly its villages, much to the disadvantage of the State and its people. Anti-social elements which become a part of such uncontrolled transaction are proving disastrous for a State like Goa. Therefore, States have to be empowered to enact appropriate legislations to bring in restrictions on transfer of land and other immovable properties on grounds of duration of residence requirements in the State, social and economic needs of the State, environment and public interest, etc. as may be specified by the law.

Similarly, in the State of Goa, consisting of hardly 3,702 square meters of land with a population of roughly fourteen lakhs, increasing number of migrant population has reached to an unmanageable proportions. While it is the fundamental right of every citizen under article 19 of the Constitution to move freely throughout the territory of India, it is also the fundamental right of the others to live a decent life with basic amenities provided by the State. In order to safeguard the basic rights of those Goans and also non-Goans who are settled in Goa for a number of years, further inflow of population has to be regulated to avoid a virtual stampede in the near future.

Article 243B of the Constitution provides for the constitution of the village, intermediate and district level panchayats in the State. However, in a State like Goa having smaller size of population less than twenty lakh this objective can not be achieved because an intermediate level panchayat can not be constituted by a State with a population not exceeding twenty lakh. Hence, it is felt that suitable amendments may be made in the Constitution in order to make eligible even for the smaller State like Goa to constitute intermediate level panchayat. Since there are provisions in the Constitution which come in the way of achieving above objectives, special provisions are required to be made by amending article 371-I.

Hence, this Bill.

SHANTARAM NAIK

IV**BILL No. LXX OF 2010**

A Bill to provide for the remunerative price for the produce of the soya bean growers', insurance of soya bean crop free of cost and for their overall welfare and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Soya Bean Growers (Remunerative Price and Welfare) Act, 2010.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "fund" means the Soya Bean Growers Welfare Fund established under section 5; and

Procurement
of soya bean
and fixation
of its
remunerative
price.

- (b) "prescribed" means prescribed by rules made under this Act;
- (c) "soya bean grower" means any persons who cultivates soya bean.

3. (1) It shall be the duty of the Central Government to procure the entire soya bean crop produced in the country through an agency to be set up for the purpose.

(2) The Central Government shall fix the price of soya bean every year after taking into consideration,—

- (i) the increase in the price of soya bean seeds, pesticides, fertilizers and other inputs;
- (ii) total investment of the soya bean growers; and
- (iii) such other factors as may be prescribed.

Compulsory
insurance of
soya bean.

4. The entire soya bean produced by the soya bean growers shall be compulsorily insured free of cost of the Central Government against natural calamities, fall in the yield of soya bean, fall in the price of soya bean and such other eventualities as may be prescribed.

Soya Bean
Growers'
Welfare Fund.

5. (1) The Central Government shall set up a fund to be known as the Soya Bean Growers' Welfare Fund.

(2) The Central Government and the State Government shall contribute to the fund in such ratio as may be prescribed.

Utilisation of
Fund.

6. The Fund shall be utilised,—

- (a) to provide financial assistance to soya bean growers for purchasing soya bean seeds, pesticides and fertilizers, and in cases of low yields of soya bean or loss of their crops due to rains, storms, floods, hailstorms and drought;
- (b) to pay compensation to the next of kin of soya bean growers in the event of their death;
- (c) to pay life insurance premium on behalf of the soya bean growers;
- (d) to provide free health facilities to soya bean growers and their families;
- (e) to provide assistance to the soya bean growers in the event of disability; and
- (f) for such other purposes as may be prescribed by the Central Government.

Power to make
rules.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Soya bean is one of the main commercial crops of the country. Export of this crop is not only benefiting the industry sector of the country but the Government is also earning foreign currency. But, soya bean growers of the country are facing problem as they are not getting remunerative price of their produce. Soya bean growing is proving non-profitable for the farmers due to increase in the prices of soya bean seeds, fertilizers, pesticides and other inputs. Due to high investment in cultivation of soya bean farmers have to go for loans and on being unable to repay loans, they are forced to commit suicide. Being a cash crop, insurance facility is also not available to the farmers.

The condition of soya bean growers of the leading soya bean producing State of the country *i.e.* the State of Madhya Pradesh, is becoming pitiable. Farmers of the State are getting into debt trap and are on the verge of committing suicide as they are not getting remunerative price even after high investment in the soya bean crop. The condition of the soya bean growers of other States is more or less the same.

Therefore, the responsibilities of the Government is not only to fix the remunerative price of soya bean to protect the interest of the soya bean growers but also to provide for free insurance and setting up of Soya Bean Grower Welfare Fund. There is an urgent need of enacting a law in this regard.

Hence, this Bill.

PRABHAT JHA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for procurement of soya bean from soya bean growers by an agency to be set up by the Central Government and fixation of remunerative price for soya bean by the Central Government. Clause 4 provides for compulsory free of cost insurance by the Central Government of soya bean crop against natural calamities. Clause 5 provides for setting up of a Soya Bean Growers' Welfare Fund to which the Central Government and the State Governments shall contribute in such ratio, as may be prescribed. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees three thousand crore may be involved per annum. A non-recurring expenditure of about rupees one thousand crore may also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules to carry out the purposes of the Bill. It will relate to matters of details only. The delegation of legislative power is of normal character.

V

BILL No. XLIX OF 2011

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2011.

(2) It shall come into force with immediate effect.

Substitution of new article for article 346.

2. For article 346 of the constitution, the following article shall be substituted, namely:—

“346. Hindi language shall be the official language for communication between one State and another State and between a State and the Union”.

STATEMENT OF OBJECTS AND REASONS

Hindi, certainly being distinct from other Indian languages in many ways and having specific potential for development, was accorded the status of official language in the Constitution. But, since Hindi had never been official language in India before, the founders of Constitution felt it necessary to provide for its adequate dissemination and development. Moreover, in order to disseminate Hindi, it was clearly directed that its use be done in such a manner that Hindi could become the medium of expression of all the elements of the composite culture *i.e.*, mixed culture of India.

But, the present form of article 346 is a hindrance in providing Hindi the status of official language of the Union. Hindi has to become the medium of expression of all the elements of the composite culture of the country. Therefore, it is high time that this article be amended to pave the way for the development of official language Hindi.

Hence, this Bill.

PRABHAT JHA

FINANCIAL MEMORANDUM

Clause 2 of the Bill, require financial resources for providing training of Hindi language to the officers and staff in many States. The expenditure will be borne from the Consolidated Fund of India. It is estimated that the Bill, if enacted, I will involve a recurring expenditure of rupees ten crore per annum.

A non-recurring expenditure of rupees five crore may also involve.

VI**BILL NO. LIV OF 2011**

A Bill to provide for the employment guarantee to educated unemployed youth on employment guarantee card and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Employment Guarantee for Educated Unemployed Youth Act, 2011.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) “educated unemployed youth” means any person who holds at least a graduate degree and aged between twenty-five to forty years but who is not a regular employee of any Government or private organisation; and

(c) “prescribed” means prescribed by rules made under this Act.

3. (1) The appropriate Government shall, within six months from the date of commencement of this Act, formulate an employment Guarantee Scheme for educated unemployed youth and provide employment opportunities to every educated unemployed youth within its territorial jurisdiction.

Employment
Guarantee
Scheme and
issue of
employment
guarantee card
for educated
unemployed
youth.

(2) The employment opportunities referred to in sub-section (1) shall be provided by the appropriate Government to every unemployed youth having an employment guarantee card, according to his or her qualification.

(3) For carrying out the purposes of this Act, it shall be duty of the appropriate Government to generate requisite number of employment opportunities in Government and private sector and issue employment guarantee card to every educated unemployed youth, initially for a period of one year and subsequently on regular basis.

(4) The employment guarantee card shall contain the name, age, educational qualifications, details of family, family income and such other information may be prescribed.

4. (1) Every employment guarantee card holder shall be provided with a minimum monthly allowance of rupee ten thousand and maximum of rupees twenty-five thousand according to his or her qualification.

Allowances to
the employ-
ment
guarantee card
holder.

(2) The payment of the allowances to card holder shall be made by the appropriate Government.

5. (1) Every employment guarantee card holder shall be entitled for a life insurance card for a sum of rupees two lakh.

Life insurance
for the
employment
guarantee card
holder.

(2) In case of a card holder's death, the sum insured shall be paid to his or her nominee.

(3) The premium for the card holder's insurance shall be paid by the appropriate Government.

6. (1) The Central Government shall, as soon as may be, by notification in the Official Gazette, Establish an employment guarantee fund with initial corpus of rupees ten thousand crore and thereafter shall contribute to the fund from time to time along with the Government of the States in such ratio as may be prescribed.

Establishment
of the
Employment
Guarantee
Fund.

(2) There shall also be credited to the fund such other sums as may be received by way of donation, contribution, assistance or otherwise from individuals, body corporate, financial institutions, firms, partnership, etc.

(3) All amounts due and payable for employment guarantee, life insurance coverage and all expenditure relating to the management and administration of the fund shall be paid out of the fund.

(4) The fund shall be managed by the Central Government in such manner as may be prescribed.

7. The Central Governments shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds to all the State Government and Union Territory administration for carrying out the purposes of this Act.

Central
Government
to provide
requisite fund.

8. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to any matter dealt with by this Act.

Act to have
overriding
effect.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to
make rules.

STATEMENT OF OBJECTS AND REASONS

In the recent years, there has been a sharp decline in the employment growth in the organised sector comprising of both public and private sectors in the country resulting into a large number of educated unemployed youth in the country. In the establishments included under the Employment Market Information System of the Ministry of Labour, the employment increased at the rate of 1.20 per cent per annum during 1983—94, whereas during 1994—2007, it fell to 0.03 per cent per annum.

Due to fall in the rate of employment and increasing number of educated unemployed youths, not only the major portion of the human resource of the country is going waste but also the right to equal opportunity provided by the Constitution is being violated. The Bill proposes to provide employment guarantee scheme and generate employment opportunities for the educated unemployed youths of the country.

Hence, this Bill.

PRABHAT JHA

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for payment of allowances under the Employment Guarantee Scheme to the employment guarantee card holders. Clause 5 provides for life insurance cover to the employment guarantee card holders. Clause 6 provides for establishment of an employment guarantee fund and Clause 7 provides for the Central Government to make available requisite fund for carrying out the purpose of this Act.

The Bill if enacted, will involve recurring expenditure of about rupees fifty thousand crore per annum out of Consolidated Fund of India.

A non-recurring expenditure to the tune of about rupees five thousand crore is also likely to be involved to issue the employment guarantee cards.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. Since the rules will relate to matters of details only, the delegation of legislation power is of a normal character.

VII**BILL No. LVII OF 2011**

A Bill to provide for setting up of an Institution for prevention and management of conflict of interest and to realise the rights and duties of every citizen in a welfare state like India and for matters connected therewith or incidental thereto.

CHAPTER I**PRELIMINARY**

1. (1) This Act may be called the Prevention and Management of Conflict of Interest Act, 2011.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Chairperson" means Chairperson of Conflict of Interest Commission appointed under section 22 of the Act;

(b) "Commission" means Conflict of Interest Commission set up under section 21 of the Act;

(c) "Conflict of Interest" means the existence of conflict between the public duty of a public official or consultant and the private interest of such official or consultant or any other person, in which the private interest of such official, consultant or other person could improperly influence the performance of official duties and responsibilities by any person, or result in breach of public trust, or be calculated to further the private or commercial interest of any person or organisation;

Explanation I.—A conflict of interest may exist even if no unethical or improper act results from it.

Explanation II.—A conflict of interest situation exists when a public official/consultant/person serving on a public body/authority/project or whose recommendations are sought for any public project by any public authority or body, or who is inducted or proposed to be inducted on any committee or sub-committee or advisory body established for any public project has served in a private organisation within the past twenty four months, or is currently serving in a private organisation or will be serving in a private organisation within the following twenty-four months.

(d) "Consultant" means any person whose expert services, advice or recommendations are sought for any public project by any public authority or body, or who is inducted or proposed to be inducted on any committee or sub-committee or advisory body established for any public project;

(e) "Person" means any individual or association of persons or body or organisation, whether incorporated or not, and includes any trust, foundation or multilateral agency or organisation;

(f) "Prescribed" means prescribed by rules made under this Act;

(g) "Private interest" means an interest that is of personal financial, commercial or other benefit to a public official or the organisation to which he belongs or has belonged or has links to, or that can lead to financial, commercial or other benefits to any person or corporation or organisation.

(h) "Public authority or body" means and includes:

(i) the Central Government or any Ministry or Department thereof;

(ii) a State Government or any Ministry or Department thereof;

(iii) any authority, organisation or body established by or under the Constitution of India or under any law made by Parliament or the Legislature of any State;

(iv) any authority, organisation or body owned, controlled or financed, directly or indirectly, by funds provided by the Central Government or any State Government;

(v) any non-government organisation which is substantially financed, directly or indirectly, by funds provided by the Central Government or any State Government;

(vi) any scientific, technical or research institution, university or deemed university which is consulted by, or whose facilities or faculty are utilized for obtaining expert services or recommendations for decision-making by, Governments or entities enumerated in sub-clauses (i) to (v) of this clause;

(vii) any private organisation, agency or body which is consulted by, or whose facilities or employees are utilized for obtaining expert services or recommendations for decision-making by, Governments or entities enumerated in sub-clauses (i) to (v) of this clause.

(i) "Public project" means any project or program or activity or scheme proposed or undertaken by the Central Government, a State Government or any of the entities enumerated in sub-clauses (i) to (v) of clause (h) of this Section, including projects, programs or activities proposed or undertaken through public-private partnership, privatization, international or multilateral co-operation or collaboration, or in furtherance of international treaties or conventions;

(j) "Public official" means any person employed or for the time being engaged by a public authority or body, whose services are at the relevant time utilized for any public project, and includes any member of a committee or consultative group constituted by any public authority or body for the purposes of a public project.

CHAPTER II

CONFLICT OF INTEREST

3. (1) A public authority or body which is engaged in planning or performance of a public project shall not engage or utilize any public official or person or consultant for such project if they know or have reason to believe that such public official or person or consultant has or is likely to have a conflict of interest in respect of such project.

Duty of public authority or body.

(2) If at any time it comes to the notice of such public authority or body that any public official or person or consultant has or is likely to have a conflict of interest in respect of such project, the public authority or body shall forthwith ensure that such public official or person or consultant ceases to be engaged or employed or associated with such project, regardless of whether such public project commenced before or after the coming into force of this Act, or whether the appointment or engagement of such public official, person or consultant was prior to coming into force of this Act.

(3) If at any time it comes to the notice of such public authority or body that any recommendation was made or decision taken with the participation of a public official, person or consultant who has or was likely to have a conflict of interest in respect of the particular public project, the public authority or body shall forthwith re-examine such recommendation or decision after complying with sub-section (2), and upon such re-examination shall take a fresh decision or make a fresh recommendation if it deems fit.

(4) a public authority or body referred to in sub-section (1) shall not, except when it is unavoidable in the public interest, accept funding or donations from any person if they know or have reason to believe that such person has or is likely to have a conflict of interest in respect of such project:

Provided that where acceptance of funding from such person is unavoidable in the public interest, reasons shall be recorded for the same and the public authority or body shall seek to obtain such funding from all competitors in the concerned field.

4. A public official, consultant or a member or employee of any public authority or body shall not render advice or make a recommendation or decision or participate in making a recommendation or decision in respect of a public project if the concerned person has a conflict of interest or knows or reasonably should know that in the making of the recommendation or decision there is the opportunity to further the concerned person's private interest or to further another person's private interest.

Duty of individual.

5. (1) A public official, consultant or a member or employee of any public authority or body shall not use information that is obtained in his or her capacity as a public official, consultant, member or employee and that is not available to the general public to further or

Disclosure of inside information.

to seek to further the concerned person's private interest or to further another person's private interest.

(2) A public official, consultant or a member or employee of any public authority or body shall not divulge or communicate information mentioned in sub-section (1) to another person if the concerned person knows or reasonably should know that the information may be used for a purpose described in that sub-section.

Not to influence the decision of another person.

Restrictions on gifts, services and benefits.

6. A public official, consultant or a member or employee of any public authority or body shall not use his or her office to seek to influence a decision made by another person so as to further the concerned person's private interest or to further another person's private interest.

7. (1) A public official, consultant or a member or employee of any public authority or body shall not accept any direct or indirect benefit including but not limited to fee, payment, gift, services that are monetary or in kind, hospitality including travel costs, personal benefit, research funding, gifts to family members and the like, except lawful compensation, from any person who he knows or has reason to believe or is likely to have a conflict of interest in respect of any public project with which the public official, consultant, member or employee of a public authority or body is concerned.

(2) Nothing contained in sub-section (1) shall apply to a gift or personal benefit that is received as an incident of the protocol or social obligations that normally accompany the responsibilities of office:

Provided that such gift or personal benefit is immediately reported in writing to the concerned public authority or body.

(3) The gift disclosure statement shall,—

(a) be in the form prescribed by the Commissioner; and

(b) indicate the nature of the gift or personal benefit, its source and the circumstances under which it was given and accepted.

8. Without prejudice to the provisions of section 4, a public official, consultant or a member or employee of any public authority or body who knows or has reasonable grounds to believe that he or she has a conflict of interest in a matter that is before the Committee or Panel or Board or Authority or Any other decision making or implementing body, shall, if present at a meeting considering the matter,—

(a) disclosure the general nature of the conflict of interest; and

(b) withdraw from the meeting without voting or participating in consideration of the matter.

9. (1) If it is found that any public official, consultant or employee or member of any public authority or body has or had a conflict of interest, then such person shall forthwith be removed from the said public body or authority, and all decision taken by the said public authority or body during the tenure of such a person herein be cancelled and, shall thereafter, be reviewed by public authority or body after the removal of such a person.

(2) Such public authority or body shall inform the Commission about the removal of the concerned person and the results of the review of all the decisions taken during the tenure of the said person, and shall also notify the same on the concerned public authority's or body's website.

CHAPTER III

PROVISIONS APPLICABLE TO MEMBERS OF COMMITTEE, PANELS, BOARD, AUTHORITY, COMMISSION OR OTHER DECISION MAKING OR IMPLEMENTING BODY

Prohibited activities.

10. A member of a Committee, Panels, Board, Authority, Commission or other decision Making or implementing body shall not,—

(a) engage in any trade, occupation or employment or in the practice of any profession that can be construed as giving rise to conflict of interest; or

- (b) engage in the management of a business carried on by a corporation or a Business Interest Organisation; or
 - (c) carry on business through a partnership or sole proprietorship; or
 - (d) hold or trade in securities, stocks, futures or commodities, of commercial enterprises that may benefit directly or indirectly through policy decisions or implementation; or
 - (e) hold an office or directorship in a commercial enterprise or a Business Interest Organisation or have held an office or directorship in a commercial enterprise or a Business Interest Organisation for the past twenty four months.
- 11.** Any authority, committee, Panel, Board or other decision making or a implementing body or a member of such a body shall not knowingly award a contract to or approve a contract with, or grant a benefit to, a former member of the body until twenty-four months have expired after the date on which the former member ceased to hold office.

Restrictions applicable to the Committee, Panel, Board, Authority, Other decision-making or implementing body. Restrictions applicable to former members.

- 12.** No former member of a Committee, Panel, Board, Authority or Other decision-making or Implementing body shall, unless twenty-four months have expired after the date when he or she ceased to hold office as a member of the said body,—

- (a) accept a contract or benefit that is awarded, approved or granted by the Committee, Panel, Board, Authority or Other decision-making or implementing body.
- (b) make representations on his or her own behalf or on behalf of any other person, corporation, commercial sector or Business Interest Organisation with respect to a contract or benefit.

CHAPTER IV

DISCLOSURE

- 13. (1)** Every public official, consultant, member or employee concerned with a public project shall file with the public authority or body, a public disclosure statement in the form prescribed by the Commissioner.

Public disclosure statement.

- (2) Where a consultant or member of any committee, sub-committee, advisory or recommendatory body established by a public authority or body is employed or engaged by any other person, corporation or organization, or is nominated or deputed for the purpose by any other person, corporation or organization, then such other person, corporation or organization shall also file with the public authority or body, a public disclosure statement in the form prescribed by the Commissioner.

- (3) A public disclosure statement shall be filed,—

- (a) within thirty days after becoming a member of a Committee, sub-committee, Advisory body, Panel, Board, Authority or Other decision-making or implementing body; and

- (b) within each subsequent year at the time specified by the Chairperson.

- (4) Every person mentioned in sub-section (1) who is a member on the coming into force of this section shall file a public disclosure statement in the prescribed form within thirty days after the coming into force of this section.

- (5) Subject to sub-section (6), a public disclosure statement shall contain,—

- (a) interests of the member, and, so far as is known by the member, of the member's spouse and minor children, and of private corporations controlled by the member, the member's spouse and minor children, or any of them, and

- (b) any salary, financial assistance or other benefit the member has received from

any person, corporation or organisation other than the employer during the preceding twelve months, or is likely to receive during the next twelve months.

(6) In a public disclosure statement with respect to a member or the member's spouse or minor children, the following shall not be disclosed,—

- (a) the primary residence owned or controlled by any such person;
- (b) the primary recreational property owned or controlled by any such person;
- (c) automobiles owned or controlled by any such person;
- (d) items of domestic, household or personal use of ownership, including cash, non-convertible bonds, trust and bank certificates and registered retirement savings plans which are not self-administered.

(7) The person concerned shall file a statement of material change in the disclosure with the public authority or body, in the form prescribed by the Chairperson, within thirty days after,—

- (a) a change in the assets, liabilities or financial or business interest of the member or his or her spouse and minor children, or any private corporation represented by any of them; or
- (b) an event causes a person to become or cease to be a member of the member's family, if such change or event shall reasonably be expected to have a significant effect on the information previously disclosed.

Failure to file
public
disclosure
statement.

14. (1) Where a public official, consultant, member or employee concerned with a public project fails to file a public disclosure statement within the prescribed period, the public authority or body shall not permit such person to attend the meetings of, or to participate in the Committee, sub-committee, advisory or recommendatory body or in any other aspect of the concerned public project, and shall forthwith report about the failure to the Chairperson.

(2) Where a member fails to file a public disclosure statement by the date specified by the Chairperson under sub-section (1) or fails to appear for consultation by the date specified by the chairperson shall then he pepare a report with the name of the member concerned and for public disclosure.

Availability of
Public
disclosure
statement.

15. The public disclosure statement filed by the concerned person, corporation or organization is deemed to be a public document, and shall be notified by the responsible public body or authority and the Commission on their website and shall be made available on payment of reasonable charges to any person.

CHAPTER V

PUNISHMENTS FOR OFFENCES

Offences and
Penalties.

16. (1) Whoever contravenes or attempts to contravene or abets in the contravention of provisions of section 3 or section 4 or section 5 or section 6 or section 8 or section 9 shall be punishable with imprisonment for a term which may extent to five years, or with fine which may extend to rupees ten lakh, or with both.

(2) Whoever contravenes or attempts to contravene or abets in the contravention of the Provisions of section 11 or section 12 shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to rupees five lakh, or with both.

(3) Whoever contravenes or attempts to contravene or abets in the contravention of any provisions of this Act or the Rules framed thereunder, for which no other penalty is prescribed, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to rupees one lakh, or with both.

17. (1) Where any offence under this Act has been committed by a company, every person who, at the time of the offence was directly incharge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.—*For the purpose of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

18. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offences under this Act shall be cognizable and non-bailable.

Offences to be cognizable and non-bailable.

19. No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall take cognizance of and try any offence punishable under this Act.

Cognizance of offences.

20. For violation of any of the provisions of the Act with criminal intention, the person shall be punished with minimum two years of rigorous imprisonment and a maximum of seven years of rigorous imprisonment or with fine of rupees five lakh and both according to the gravity of offence.

Punishment for act done with criminal intention.

CHAPTER VI

CONFLICT OF INTEREST COMMISSION

21. (1) The Central Government shall, by notification in the official Gazette, constitute a body to be known as the Conflict of Interest Commission to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.

Constitution of the Conflict of Interest Commission.

(2) The Commission shall consist of the following:—

(a) a Chairperson, who shall be a person of eminence and has done outstanding work for promoting human rights and a serving or retired judge of Supreme Court;

(b) eight Members, out of which at least six shall be from civil society organisations, and to shall be women, to be appointed by the Central Government from amongst persons of eminence, ability, integrity, standing and experience in the following fields:—

(i) education; or

(ii) public health including women and children's health; or

(iii) food and nutrition; or

(iv) employment and livelihood; or

(v) agriculture; or

(vi) environmental sciences; or

(vii) natural resource management; or

(viii) economics; or

(ix) law.

(3) The office of the Commission shall be at Delhi.

Appointment of Chairperson and Members.

22. The Central Government shall, by notification in the official Gazette, appoint the Chairperson and such other Members as defined in sub-section (2) of section 21:

Provided that the Chairperson shall be appointed on the recommendation of a three member Selection Committee constituted by the Central Government under the Chairmanship of the Prime Minister.

23. (1) The Chairperson and every Member shall hold office for a term of three years from the date of assuming the office:

Provided that Chairperson or any Member shall not hold the office for more than two terms:

Provided further that no Chairperson or any Member shall hold office as such after he or she has attained,—

(a) in the case of the Chairperson, the age of seventy years; and

(b) in the case of a Member, the age of sixty five years.

(2) The Chairperson or a Member may, by writing under his hand addressed to the Central Government, resign his office at any time.

24. The Salary and allowances payable to, and other terms and conditions of service of, the Chairperson and Members, shall be such as may be prescribed by the Central Government:

Provided that neither the salary and allowances nor the other terms and conditions of the Chairperson and Members, as the case may be, shall be varied to his or her disadvantage after his or her appointment.

Removal from Office.

25. (1) Subject to the provisions of sub-section (2), the Chairperson may be removed from office by an order of the Central Government on the ground of proved misbehaviour or incapacity.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may by order remove from office the Chairperson or any other Member, if the Chairperson or any other Members, as the case may be,—

(a) is adjudged an insolvent; or

(b) engages during his or her term of office in any paid employment outside the duties of his office; or

(c) refuses to act or becomes incapable of acting; or

(d) is of unsound mind and stands so declared by a competent court; or

(e) has so abused his office as to render his or her continuance in office detrimental to the public interest; or

(f) is charged with Conflict of Interest; or

(g) is convicted and sentenced to imprisonment for an offence, which in the opinion of the Central Government involves moral turpitude; or

(h) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission.

(3) No person shall be removed under this section until that person has been given an opportunity of being heard in the matter.

- 26. (1) If the Chairperson or a Member, as the case may be,** Vacation of office of Chairperson or Member.
- (a) becomes subject to any of the disqualifications as mentioned in section 25; or
 - (b) tenders his or her resignation under sub-section (2) of section 22, his or her seat shall thereupon become vacant.
- (2) If a casual vacancy occurs in the office of the Chairperson or a Member, whether by reason of his or her death, resignation or otherwise, such vacancy shall be filled within a period of ninety days by making afresh appointment in accordance with the provisions of section 22 and the person so appointed shall hold office for the remainder of the term of office for which the chairperson, or the Member, as the case may be, in whose place he or she is so appointed.
- 27. No act or proceeding of the Commission shall be invalid merely by reason of,—** Vacancies, etc. not to invalidate the proceedings of the Commission.
- (a) any vacancy in, or any defect in the constitution of the Commission; or
 - (b) any defect in the appointment of a person as the Chairperson or a Member;
 - (c) any irregularity in the procedure of the Commission not affecting the merits of the case.
- 28. (1) The Commission may appoint a Commissioner and such number of Officers and Staffs, as it considers necessary for the efficient discharge of its functions as provided under the Act:** Appointment of Commissioner, Officers and Staff.
- Provided that no appointment shall be made without prior approval of the Central Government.
- (2) The salary and allowances, and other terms of conditions of service shall be as may be prescribed.
- (3) The Commission shall meet regularly at its office at such time as the Chairperson thinks fit, but three months shall not intervene between its last and the next meeting. Procedure for transacting the business.
- (2) All decisions at a meeting shall be taken by majority:
- Provided that in the case of equality of votes, the Chairperson, or in his or her absence the person presiding, shall have and exercise a second or casting vote.
- (3) If for any reason, the Chairperson is unable to attend the meeting of the Commission, any Member chosen by the Members present from amongst themselves at the meeting, shall preside.
- (4) The Commission shall observe such rules of procedure in the transaction of its business at a Meeting, including the quorum at such meeting, as may be prescribed by the Central Government.
- (5) All orders and decisions of the Commission shall be authenticated by the Chairperson or any other officer of the Commission in this behalf.

CHAPTER VII

FUNCTIONS AND POWERS OF THE COMMISSION

- 30. (1) The Commission shall perform all or any of the following functions, namely,—** Functions of the Commission.
- (a) examine and review the safeguards provided by or under any law for the time being in force for prevention of Conflict of Interest in decision making and

implementation of any policy or programme of the Government of India and State Government;

(b) present to the Central Government, annually and at such other intervals, as the Commission may deem fit, reports upon the working of those safeguards;

(c) examine all policies and programmes of the Central Government for Conflict of Interest in decision making and implementation and initiate proceedings in such cases;

(d) examine proposals for Public Private Partnerships for conflict of interest and make recommendations to the Central Government;

(e) examine policies, programmes and Public Private Partnerships initiated before the setting up of the Commission for conflict of interest and institute remedial action if such conflict of interest is found to be existing or having existed when the decision was taken or the programme was implemented;

(f) study treaties and other international instruments and undertake periodical review of existing policies, programmes and other activities for conflict of interest;

(g) spread Conflict of Interest literacy among various sections of the society and promote awareness of the safeguards available to prevent it through publications, media, seminars and other available means;

(h) inquire into complaints and take *suo motu* notice of matters relating to conflict of interest;

(i) such other functions as it may consider necessary for safeguarding the interests of the people and their human rights and any other matter incidental to the above functions.

(2) The Commission shall not inquire into any matter which is pending before a State Commission or any other Commission duly constituted under any law for the time being in force.

Powers of the Commission.

31. (1) The Commission shall, while inquiring into any matter referred to in clause (h) of sub-section (1) of section 30 have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 and, in particular, in respect of the following matters, namely,—

5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him or her on oath;

(b) discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office; and

(e) issuing commissions for the examination of witnesses or documents.

(2) The Commission shall have the power to forward any case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused.

Action to be taken after inquiry.

32. The Commission may take any of the following steps upon the completion of an inquiry held under this Act, namely:—

(i) where the inquiry discloses Conflict of interest, initiate measures to remove such conflict; and

(ii) approach the Supreme Court or the High Court concerned for such direction, orders or writs as that Court may deem necessary.

CHAPTER VIII

INVESTIGATION INTO BREACHES

33. (1) Any person may request in writing to the chairperson for investigating an alleged breach of this Act by a Member of a policy or decision-making or implementing body. Request for investigation.

(2) A request under sub-section (1) shall be in the form of an affidavit and shall set out the grounds for the belief and the nature of the alleged breach.

(3) The decision-making or implementing body may also request the Chairperson to investigate any matter in respect of an alleged breach of this Act by a Member.

34. (1) On receiving a request under section 33, the Chairperson may conduct an investigation with or without conducting an inquiry. Investigation and inquiry.

(2) The Chairperson shall provide the Member who is the subject of the investigation with reasonable notice and shall give the member an opportunity to respond to the allegation.

(3) When the Chairperson conducts an investigation or an inquiry under this section the Member who is the subject of the request under section 33 shall respond promptly and completely to all of the Chairperson's questions and requests for information.

(4) Where the Chairperson elects to conduct an inquiry under this section, he has all the powers and privileges conferred on a Chairperson under of this Act under sub-section (2) of section 31.

(5) If the Chairperson is of the opinion that the request is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, the Chairperson may refuse to conduct an investigation, or may cease the investigation.

(6) If the Chairperson refuses to conduct an investigation or ceases an investigation, then he or she shall inform,—

(a) the member against whom the allegation was made, and

(b) the person or the decision-making or implementing body who made the request for investigation.

Explanation.—

49 of 1988.

For the purposes of this section, the powers and actions taken by the Chairperson or other authorities hereunder, shall be without prejudice to the provisions of the Prevention of Corruption Act, 1988 or any other law dealing with conduct, discipline or vigilance of Government servants or public authorities.

35. If the Chairperson, when conducting an investigation, discovers that the subject matter of the investigation is being investigated by police or that a charge has been laid, the Chairperson shall suspend the investigation until the police investigation or charge has been finally disposed of, and shall make public disclosure of the matter. Police investigation of charge.

36. (1) Where a request is made under section 33 and the chairperson has determined that the request does not fall within the scope of sub-section (5) of section 34, the Chairperson shall, upon completion of an investigation, report to,— Report of Chairperson.

(a) the decision-making or implementing body to which the Member belongs,

(b) the Member who is the subject of the investigation,

(c) if the request was made by a person under sub-section (1) of section 33 that person.

(2) Where it appears to the Chairperson that a report may adversely affect a Member, the Chairperson shall inform the Member of the particulars and give the Member an opportunity to make representations, before the Chairperson completes the report.

(3) The report of the Chairperson shall set out,—

(a) the facts found by the Chairperson,

(b) the findings as to whether or not a Member has breached the Act and the nature of the breach, and

(c) the recommended sanction, if any.

(4) The Chairperson's report shall remain confidential until it is laid before the decision-making or implementing body to which the Member belongs, and no person shall disclose all or any portion of it before that time.

Recommended sanctions.

37. Where the Chairperson conducts an investigation under section 34 and finds that a member has breached any of sections 3, 4, 5, 6, 8, 9, 10 11, 13, inclusive, or has failed to file a gift disclosure statement, a public disclosure statement or a statement of material change within the time provided by this Act or has failed to disclose relevant information in that statement, the Chairperson may recommend that the Member be expelled from membership of the said decision-making or implementing body.

Public Disclosure of sanctions.

38. Where the Chairperson conducts an investigation under section 34 and finds that a Member has breached any of the sections mentioned in 37, the Chairperson shall make a public disclosure of the findings and the sanctions against the Member and the same on the website of the Commission.

CHAPTER IX

MISCELLANEOUS

Power to make rules.

39. (1) The Central Government may, by notification in the official Gazette and make rules for carrying out provisions of this Act.

(2) Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Annual Report and audit statement to be laid before Parliament.

40. (1) The Chairperson shall in each year submit to both Houses of Parliament an annual report describing the progress and activities of the Commission in the previous year.

(2) The Annual Report and Audited statement of the commission shall be tabled in both Houses of Parliament.

STATEMENT OF OBJECTS AND REASONS

Conflict of interest may be defined as a situation in which politicians, public servants, consultants, technical or scientific experts, subject matter specialists or even academics have an actual or potential interest (usually financial) that may influence or appear to influence the conduct of their official duties or the quality of advice or recommendations rendered by them in the context of decision making by the governance structures and institutions for public good, conflict of interest becomes even more critical in cases where the corporate or private sector or their lobbyists are involved.

Duty of Loyalty is a term used in corporate law to describe a fiduciaries' "conflicts of interest" and requires fiduciaries to put the corporation's interests ahead of their own. Extending this logic to governance structures and institutions, government employees, and those representing the government in any form or manner are required to put public interest or citizens' interests and rights ahead of their own interests or that of any other party.

The Fundamental Rights are set out in Part III of the Constitution. The State cannot abridge those rights. The "right to life" is enshrined in article 21 as a fundamental right. This right has been extended to cover the right to live with human dignity. In **Bandhua Mukti Morcha Vs. Union of India** Justice Bhagwati referring to **Francis Coralie Mullin Vs. Administrator, Union Territory of Delhi**, stated:

That it is the fundamental right of everyone in this country, assured under the interpretation given to article 21 by this Court in Francis Mullen's case, to live with human dignity, free from exploitation. This right to live with human dignity enshrined in article 21 derives its life breath from the Directive Principles of State Policy and particularly Clauses (e) and (f) of article 39 and articles 41 and 42 and at the least, therefore, it must include protection of the health and strength of workers, men and women, and of the tender age of children against abuse, opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity, educational facilities, just and human conditions of work, etc. These are the minimum requirements which must exist in order to enable a person to live with human dignity and no State, neither the Central Government nor any State Government has the right to take any action which will deprive a person of the enjoyment of these basic essentials.

Thus, Duty of Loyalty dictates that every government employee, institution, or anyone representing the government directly or indirectly in any manner ensure that, in cases where conflict of interest exists, the citizens' right to live with human dignity is put ahead of all other interests.

The need to avoid conflicts of interest in governmental decision making, and particularly when constituting expert committees or advisory bodies, has found statutory recognition in section 13(1) of the Food Safety and Standards Act, 2006 which requires that the experts co-opted on such committees must be "independent." The Supreme Court, in its Order dated February 8, 2011 in Writ Petition (Civil) No. 681 of 2004 (**Central for Public Interest Litigation v/s Union of India and Others**), enforced this requirement for independence to avoid conflicts of interest.

International and multilateral agencies and bodies have also accepted and recognised the need to protect public decision making from private conflicts of interest. For example, Article 5.3 of the Framework Convention on Tobacco Control spells out clearly the duty of the state: "when Parties are setting and implementing public health policies related to tobacco control, they shall 'act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law'." Similarly, the various agencies and bodies constituted under the aegis of the United Nations, including the World Health Organisation and other agencies, have framed guidelines to prevent conflicts of interest. The current market liberalization has ushered in an era of new relationships between the state and the markets, with a potential for creating a new relationship between the state and the

citizen. Private sector is increasingly being invited to present their solutions to the nation's ills. Yet many services, such as public goods—health care, nutrition, education, water sanitation, protection of the environment, etc.—cannot be provided by markets. The primary duty of the private sector is to increase its profits for its shareholders, whereas the fundamental and inalienable duty of the State is to provide all its citizens, especially the weakest and poorest, with the minimum requirements to live a life with safety and dignity, regardless of the cost. The Constitution of India makes it incumbent that the State gives primacy to article 21 and its expanded interpretation as the right to live with human dignity.

The differing priorities—that of the State and that of the private sector—present in themselves a serious conflict of interest. The current draft legislation on Conflict of Interest is an attempt to safeguard the duty of the State towards its citizens and to uphold article 21 of the Constitution.

Hence, this Bill.

DR. E.M. SUDARSANA NATCHIAPPAN

FINANCIAL MEMORANDUM

Clause 21 of the Bill provides for the constitution of a Commission to be known as the conflict of Interest Commission. Clause 24 provides for the salary and allowances of Chairperson and Members.

Clause 28 provides for the appointment of Commission Officers and staffs and their salary and allowances and other terms of condition of service.

The Bill, if enacted, will involve expenditure from the consolidated Fund of India. However, at this stage, it is not possible to quantify the exact amount of recurring and non-recurring expenditure to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 40 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only. The delegation of legislative power is of normal character.

VIII**BILL NO. VI OF 2012**

A Bill further to amend the Protection of Human Rights Act, 1993.

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Protection of Human Rights (Amendment) Act, 2012. Short title and commencement.

(2) It shall come into force at once.

2. In section 12 of the Protection of Human Rights Act, 1993 (hereinafter referred to as the Principal Act), after sub-clause (ii), of clause (a), the following sub-clause, shall be inserted, namely:—

“(iii) a person or Non-Government Organization or an institute”.

Amendment of
section. 17.

3. In section 17 of the Principal Act, for clause (i), the following clause shall be substituted, namely:—

"(i) call for information or report from the Central Government or any State Government or any other authority or organization subordinate thereto or from a person or Non-Government Organization or an institute for violation of such human rights as have arisen out of International Covenants and enforceable by courts of India, within such time as may be specified by it."

Amendment of
section. 18.

4. In section 18 of the Principal Act:—

(i) for clause (1), the following clause shall be substituted, namely:—

"(1) where the inquiry discloses, the commission of violation of human rights or negligence in the prevention of violation of human rights by a public servant, a person Non-Government Organization or an institute, it shall recommend to the concerned Government or authority the initiation of proceedings for prosecution or such other action as the Commission may deem fit against the concerned person or persons:

Provided that the Commission shall specify such action or quantum of punishment as may be prescribed for violation of human rights, action for which can not be initiated in any other law in force."

(ii) after clause (6), the following clause shall be inserted, namely:—

"(7) The Commission shall, on being satisfied that the action taken or proposed to be taken by the concerned Government or authority is not in proportion to the offence committed, forward the complaint to the Magistrate, who shall proceed to try the case in accordance with sections 200 and 201 of the Code of Criminal Procedure 1973."

STATEMENT OF OBJECTS AND REASONS

The term "human right" has been defined in the Protection of Human Rights Act, 1993 as the rights relating to life, liberty equality and dignity of the individual guaranteed by the Constitution and embodied in the International Covenants and enforceable by courts in India. As such, human rights relating to the rights guaranteed by the Constitution, if violated by the state or any public authority, may be protected. Of late, many new rights have been recognized by International Covenants violation of which can not be actionable in any other law in force. In addition to this, a person, Non Governmental Organisation (NGO) or a private institute as per the Act can not be held liable for violation of human rights even if they may have violated human rights recognized by the International covenants in other words. The Act provides for action for violation of human rights by public authority and not against a private entity.

2. It has been observed that the powers of the National Human Rights Commission have been reduced to act merely as an agency to initiate an enquiry into cases of violation of human rights and to publish action taken report submitted to it by the Government. It has only recommendatory powers, whereas, taking into account the expertise, experience and specialization in handling cases of violation of human rights, the Commission should have been given powers to specify penal actions at least for cases which are not covered by any relevant statute.

3. In view of the above, the bill proposes to amend the Protection of Human Rights Act, 1993.

4. Hence this Bill.

E.M. SUDARSANA NATCHIAPPAN

IX**BILL No. VII OF 2012**

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2012.

(2) It shall come into force at once.

Insertion of new article 21B.

2. After article 21 A of the Constitution, the following article shall be inserted, namely:—

Right to pollution free environment and civic amenities.

“21B. (1) All citizens shall have the right—

(a) to pollution free environment that is to say environment free from air pollution, water pollution, noise pollution and having the appropriate and requisite forest cover in the country; and

(b) to civic amenities such as potable water, appropriate sewerage and drainage system, periodic removal of garbage and cleaning of localities, roads and other surroundings and healthcare facilities.

(2) The State shall protect the environment from being polluted and provide civic amenities to the citizens referred to in clause (1)."

3. In article 51A of the Constitution, after clause (k) the following clauses shall be inserted, namely:—

Amendment
of article 51A.

(l) to maintain cleanliness and hygiene in residential homes or dwelling units, streets, localities, roads and work places by not littering and depositing the litter, wastes, and garbage in the dustbins and places meant for that purpose and by preventing others from littering and polluting the atmosphere in any manner whatsoever;

(m) to maintain cleanliness in public places such as parks, bus stops, railway stations, markets, etc. and roads by not littering, spitting, urinating, defecating, defacing such places.

STATEMENT OF OBJECTS AND REASONS

These days a number of cases of dangerous diseases like gastroenteritis, cholera, hepatitis, encephalitis, Viral fever, chronic asthma, allergy, etc. are on the rise and many a times these appear in the epidemic form mainly because of insanitation and unhygienic conditions prevailing almost every nook and corner of the country. The air has been polluted by vehicular emissions, dust, burning of piles of leaves of trees, grass and emission of smoke by the factories, homes and eateries like hotels, *dhabas*, etc. by smoking and gases released in the environment. The water too has been polluted by industrial effluents and wastes from homes, shops and other establishments and excess of chemicals and metals in the ground water and pesticides and chemicals dissolved in the water. Noise pollution is another problem. Few years ago Gujarat and northern parts of the country had the Plague epidemic caused by insanitation and neglect of civic amenities. Even today it is common that garbage stinks in the garbage bins germinate dangerous virus because it is not removed periodically by the local bodies. People too do not adhere to cleanliness. They litter, spit, urinate or defecate anywhere be it roadside, park, street, lane and wall of a building resulting in unhygienic conditions everywhere and piling of garbage and dirt at most of the places.

The citizens have no means to force the local Governments to provide civic amenities. It is therefore, proposed to make pollution free environment and civic amenities as Fundamental Right of the citizens. At the same time maintenance of cleanliness has also to be made a fundamental duty of the citizens.

Hence this Bill.

E.M. SUDARSANA NATCHIAPPAN

X**BILL No. VIII OF 2012**

A Bill to provide for compulsory police verification of SIM Cards in the interest of national security and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

- | | |
|---|---|
| 1. (1) This Act may be called the Compulsory Police Verification of SIM Cards Bill, 2012. | Short title,
extent and
commencement. |
| (2) It extends to the whole of India. | |
| (3) It shall come into force at once. | |
| 2. In this Act, unless the context otherwise requires:— | Definitions. |
| (a) "cellular or mobile phone" means and includes any wireless device that sends and receives voice, data, etc. using radio frequency energy. | |
| (b) "mobile network operator" means and includes any company that provides network for voice or data services to mobile phones or subscribers. | |
| (c) "prescribed" means prescribed by rules made under this Act; | |
| (d) "SIM Card" or "Subscriber Identification Module Card" means a portable memory chip or a printed circuit board that is required to be connected to a Global System for Mobile Communications (GSM), or Code Division Multiple Access (CDMA). A mobile phone which contains subscriber details such as security information, internal | |

memory of phone numbers and similar data that identifies the caller to the mobile network operator.

(e) Words and expressions used but not defined in this Act but defined in the Indian Penal Code, 1860, the Indian Telegraph Act, 1885 and the Information Technology Act, 2000 shall have the same meaning as is respectively assigned to them in those Acts.

45 of 1860.
13 of 1885.
21 of 2000.

Registration and verification of SIM Cards by Mobile network operators.

3. (1) Every mobile network operator shall register its subscribers, both prepaid and postpaid, and maintain a register indicating therein the SIM Card serial number, mobile phone number, name and address of the subscriber in such means as may be prescribed.

(2) Every mobile network provider, before issuing a SIM Card, shall obtain from the subscriber the following documents:

- (i) latest photograph of the subscriber;
- (ii) valid identification proof of the subscriber; and
- (iii) residence proof of the subscriber.

(3) The mobile network operator shall, as soon as may be but not later than fifteen days from the issue of SIM Card, submit the identification and residence proof of the subscriber to the nearest police station in whose jurisdiction the subscriber resides, for verification.

(4) All the existing mobile phone company subscribers shall within three months from the commencement of this Act, register their details with respective mobile phone companies and failure to register within this period shall result in deactivation of the SIM Card and which shall be reactivated after registration in accordance with the provisions of this Act.

Verification of antecedents of subscriber of SIM Cards by Police.

4. The concerned police authorities, shall within a period of one month from the receipt of the data of subscribers from the mobile network operator, carry out the process of verification of the authenticity of the details of the subscriber and confirm the same to the mobile network operator:

Provided that in case of the authenticity of the subscriber not being established, the fact shall be communicated by the concerned police authorities to the mobile network operator who shall immediately deactivate the SIM Card which shall be reactivated after registration in accordance with the provisions of this Act.

Mobile network operator not to pass on the information of the subscribers.

5. No mobile network operator shall pass on the information of their subscribers mentioned in section 3 of this Act to any telemarketing companies Banks, Insurance Companies or such other service provider so as to protect the right to privacy of the subscribers.

Penalty.

6. (1) Any mobile network operator who contravenes the provisions of *sub-sections (1), (2) and (3)* of section 3 of this Act shall be punished with fine which may extend to two lakh rupees for the first violation and upto ten lakh rupees for second and subsequent violation;

(2) Any subscriber who contravenes the provisions of sub-section (4) of section 3 of the Act shall be punished with fine which may extend to five hundred rupees.

(3) Any mobile network operator who contravenes the provisions of section 5 of this Act shall be punished with fine which may extend to five lakh rupees for the first violation and upto twenty lakh rupees for second and subsequent violation;

Offences to be cognizable.

7. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 every offence punishable under this Act shall be cognizable.

2 of 1974.

Overriding effect of the Act.

8. Notwithstanding anything inconsistent therewith contained in any other law for the time being in force, the provision of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

In the last few years, the influx of personal digital assistants (PDA's), hand-held computers, digital cameras and state-of-the-art cellular phones have made such devices every man's accessory of choice. Though most of these innovations come with a high price, a few are quite affordable to the masses. Telecommunications Companies have grabbed the opportunity to expand their operations and turned increasingly towards wireless technology. With the entry of new players in the market, new market strategies have been developed by different companies to remain competitive in the information technology race. Cellular network operators have introduced the pre-paid system that caters to the majority of users. Anyone who owns a GSM cellular phone only has to purchase a pre-programmed, pre-paid SIM Card, from a dealer or retailer and can then readily call or send text messages. While such system has proved to be very convenient, there are unscrupulous individuals who have found ways of abusing these innovations or using them in pursuit of nefarious shames.

Numerous complaints have been made against the irresponsible and sometimes illegal use of the cellular telephone. Police and firefighters receive hoax emergency calls from pranksters resulting in wasted efforts. There has also been an increasing incidence of "stalking" with the use of cellular telephones.

With the usual requirements for applying for a regular, post paid cellular phone line gone, the rigorous and careful process of screening and monitoring of the prospective subscriber has been eliminated. Gone are the days when authorities could track down and identify a prank caller or any such person using the tool for no good. This has given way for the cellular phone to become a standard tool for criminals and bad elements of society.

Syndicates engaged in illegal drugs, smuggling, extortion, kidnapping, and other heinous crimes, and lately, even groups seeking to sow panic and overthrow the government, have increasingly used cellular phone to further their ends with minimal, or without, risk of being caught. The authorities have encountered difficulty in their investigations because the identity of the callers could not be established.

In order to arrest this problem before it becomes worse, certain measures need to be taken in order to remove one of the stumbling blocks of the police and other law enforcers in investigating cases by making compulsory the identification and registration and verification of subscribers in the use and/or purchase of SIM Cards and mobile phone units.

Hence this Bill.

PARSHOTTAM KHODABHAI RUPALA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

XI**BILL No. XI OF 2012**

A Bill to prohibit the slaughter of cow and its progeny and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Prohibition of Slaughter of Cow and its Progeny Act, 2012.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definition.

2. In this Act, unless the context otherwise requires, “Cow” means and includes its progeny either bull, bullock, ox, heifer or calf.

Prohibition of
causing injury,
killing or
slaughter of
cow.

3. Notwithstanding anything contained in any other law for the time being in force or any usage or custom to the contrary, no person shall cause any injury or kill or attempt to kill, or shall slaughter or offer or cause to be offered for slaughter of any cow, for any reason whatsoever, in the country.

4. No person shall sell or offer for sale or cause to be sold beef or beef products in any form for any purpose. Ban on sale of beef products.
5. Any person who violates sections 3 or 4 shall be punished with imprisonment which may extend to ten years or with fine which may extend to rupees one lakh or with both. Penalty.
6. The provisions of this Act and rules made thereunder shall have effect notwithstanding that the provisions of this Act are inconsistent with any other law for the time being in force. Overriding effect.
7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Cow is held in high esteem since time immemorial and also worshipped by millions of people in our country. It is reared in almost every household in the rural area. Its milk is beneficial and nutritious for children and the sick persons. It serves the nation in many fields of life. However, it is a fact that cow is subjected to cruelty and atrocity. Article 48 of the Constitution enjoins the State to organize agricultural and animal husbandry on modern and scientific lines and in particular to take steps for preserving and improving the breeds and prohibiting the slaughter of cow and its progeny. In view of this the cow and its entire progeny must be saved to provide milk, as well as manure. Thus it becomes imperative to impose complete ban on the slaughter of cow and its progeny. Though some states have imposed the ban, lakhs of cows and its progeny are being carried from these states to the states where the ban has not been imposed and even to other countries. Various researches and practical observations have revealed that even after stoppage of milk, the products out of cow dung and urine are being manufactured to such an extent that it is becoming economically beneficial to maintain and nourish them. The demand for complete stoppage of slaughter cow and its progeny has come from eminent persons of all religions. The Supreme Court has also upheld ban in Gujarat. Thus, it is necessary to ban slaughter of cow and its progeny through a central law.

Hence this Bill.

PARSHOTTAM KHODABHAI RUPALA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is, therefore, of a normal character.

XII**BILL No. XIII OF 2012**

A Bill to establish bribery as a criminal offence and to promote effective practices to prevent bribery in private sector and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Bribery in Private Sector Act, 2012.

**Short title,
extent and
commencement.**

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification, in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "bribe" means and includes facilitation payments, directly or through third parties, gift, hospitality and expenses whenever they could or perceived to affect the outcome of business transactions, which are not reasonable and bonafide:

Explanation.—The term 'bribe' shall become extortion when the demand of bribe is accompanied by threats that endanger the personal integrity or the life of the person involved, or forced payment of bribe to protect legitimate right or the speed money, for expediting approvals and for providing or not withholding services;

(b) "commercial entity" means—

- (i) a body incorporated under the laws of India which carries on business in India or elsewhere; or
- (ii) any other body corporate, wherever incorporated, which carries on business, or part of a business, in India; or
- (iii) a partnership formed under the law in India which carries on business in India or elsewhere; or
- (iv) any other partnership, wherever formed, which carries on business, or part of a business, in India:

Explanation.—The term 'business' includes any trade, profession, commerce or manufacture.

(c) 'confiscation', means the permanent deprivation of property by order of a court or other competent authority and also includes forfeiture;

(d) 'foreign public official' means any person holding a legislative, executive, administrative or judicial office of a foreign country, whether appointed or elected as permanent or temporary, paid or unpaid or any person performing a public function or a public service for a foreign country;

(e) 'Non-Governmental Organisation' means a body incorporated under the laws in India or any other body corporate, wherever incorporated which carries on its charitable or religious activities in India, any society registered under the Societies Registration Act, 1860; a trust registered under the Indian Trusts Act, 1882 or association of persons which carries on its charitable or religious activities in India and includes community based organisations;

21 of 1860.
2 of 1982.

Explanation.—The term 'charitable or religious activities' means activities as defined in sub-section (15) of section 2 of the Income Tax Act, 1961:

43 of 1961.

(f) 'person' shall be construed to mean and include—

- (i) an individual
- (ii) a company
- (iii) a firm
- (iv) a society
- (v) a trust
- (vi) a Hindu Undivided Family (HUF)
- (vii) an association of persons or a body of individuals, whether incorporated or not
- (viii) limited liability partnership
- (ix) every artificial juridical person not falling within any of the preceding sub-clauses; and
- (x) any agency, office or branch owned or controlled by such person.

(g) 'prescribed' means prescribed by rules made under this Act;

(h) 'proceeds of crime' means any property derived or obtained, directly or indirectly through the commission of offence under this Act;

(i) 'property' means assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to or interest in such assets.

3. (1) A person shall be guilty of an offence of giving bribe, when committed intentionally in the course of economic, financial or commercial activities when it is established that there is a promise, offering or giving, directly or indirectly, of an undue advantage to any person who directs or works, in any capacity, for a commercial entity, for the person himself or for another person, in order that he in breach of his duties, acts or refrains from acting in certain matters.

Bribery in the private sector.

(2) A person shall be guilty of an offence of receiving bribe, when committed intentionally in the course of economic, financial or commercial activities when it is established that there is solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works, in any capacity, for a commercial entity, for the person himself or for another person, in order that he in breach of his duties, acts or refrains from acting in certain matters.

4. A person shall be guilty of an offence of bribery of foreign public officials, when committed intentionally in the conduct of international business, when it is established that there is an offer, promise or giving any undue pecuniary or other advantage, whether directly or through an intermediary, to a foreign public official, for that official or for a third party, in order that the official acts or refrains from acting in relation to the performance of official duties, in order to obtain or retain business or other improper advantage:

Offence of Bribery of foreign public officials.

Explanation.—For the purpose of this section, offence of bribery of foreign public officials shall also include complicity, incitement, aiding, abetting and authorization of an act of bribery of a foreign public official or an attempt and conspiracy to bribe a foreign public official.

Participation or attempt to participate in act of bribery.

5. (1) Any person who participates in any capacity such as an accomplice, aid or instigator in any offence under sections 3 or 4 shall be considered as guilty of offence under that section.

(2) Any person who makes an attempt to commit an offence under section 3 or 4 shall be considered as guilty of offence under that section.

Failure of commercial entity to prevent bribery.

6. A commercial entity shall be guilty of an offence under this section if a person associated with it, bribes another person intending—

- (i) to obtain or retain business for the commercial entity, or
- (ii) to obtain or retain an advantage in the conduct of business for the commercial entity:

Provided that the commercial entity may in defence prove that it has in place adequate procedures, as may be prescribed, designed to prevent persons associated with it from undertaking such conduct.

Failure of non governmental organisation to prevent bribery.

7. A Non-Governmental Organisation shall be guilty of an offence under this section if a person associated with it, bribes another person intending—

- (i) to obtain or retain assets, grants for the non-governmental organization; or
- (ii) to obtain or retain an advantage in the conduct of its charitable activities:

Provided that the commercial entity may in defence prove that it has in place adequate procedures, as may be prescribed, designed to prevent persons associated with it from undertaking such conduct.

Contravention by companies.

8. (1) Where a person committing a contravention of any provisions of the Act, or of any rule is a company, every person who, at the time when contravention was committed, was in charge of or was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of offence and to be punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where any contravention has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of committing contravention and shall be liable to be proceeded against and punished accordingly.

Explanation—For the purposes of this section,—

(i) 'company' means any body corporate and includes a firm, society, trust, limited liability partnership or other association of persons; and

(ii) 'director' in relation to a firm means a partner of the firm and in relation to a trust means trustee of the trust.

Penalties.

9. (1) An individual guilty of an offence under section 3 or 4 shall be liable on the first offence, for imprisonment for a term not exceeding five years or to a fine not exceeding rupees two lakh or both and for second or subsequent contravention, for imprisonment for a term not exceeding fourteen years or to a fine not less than rupees five lakh or both.

(2) any other person guilty of an offence under sections 3 or 4 shall be liable on the first offence, to a fine not exceeding rupees one lakh and for second or subsequent contravention, to a fine not less than rupees five lakh.

(3) A person guilty of an offence under section 5 is liable on conviction to a fine not more than rupees two lakh.

Confiscation of proceeds of crime.

10. (1) On conviction of a person the proceeds of crime derived from or involved in offences under sections 3 or 4, or the property the value of which corresponds to that of such proceeds shall be confiscated.

(2) If proceeds of crime have been transformed or converted, by the person in part or in full, into other property, such property shall be liable to be confiscated.

(3) If proceeds of crime have been intermingled by the person with property acquired from legitimate sources, such property shall be liable to be confiscated up to the assessed value of the intermingled proceeds.

(4) Income or other benefits derived by any person from such proceeds of crime, from property into which such proceeds of crime have been transformed or converted or from property with which such proceeds of crime have been intermingled shall also be liable to be confiscated in the same manner and to the same extent as proceeds of crime.

(5) For the purpose of this section, notwithstanding any rights or privilege provided through any other Act or by an agreement between the parties, the adjudicating authority shall have authority to order any bank, financial institution, financial intermediary or commercial entity to provide information, seize or produce records, freeze accounts and remit the proceeds of crime to the designated account.

(6) The proceeds of crime confiscated under this Act shall vest in the Central Government.

Power to appoint Special Judges.

11. (1) The Central Government, may, by notification in the Official Gazette, appoint as many Special Judges as may be necessary to try the offences punishable under this Act.

(2) A person shall not be qualified for appointment as a Special Judge under this Act unless he is or has been a Sessions Judge or an Additional Session Judge under the Code of Criminal Procedure, 1973.

(3) A Special Judge shall follow the procedure prescribed by the Code of Criminal Procedure, 1973 for the trial.

(4) A Special Judge, while trying an offence punishable under this Act shall exercise all the powers and functions exercisable by a District Judge under the Criminal Law Amendment Ordinance, 1944.

12. Subject to the provisions of this Act, the High Court may exercise, so far as applicable, all the powers of appeal and revision conferred by the Code of Criminal Procedure, 1973 on a High Court as if the Court of Special Judge was a Court of Session trying cases within the local limits of the High Court.

13. (1) The Central Government shall take appropriate steps to provide effective protection from potential retaliation or intimidation to witnesses, reporting persons and experts who give testimony concerning offences established under the Act and to their relatives.

(2) The Central Government shall establish procedures for the physical protection of such witnesses and reporting persons and for non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of such persons.

(3) The provisions of the sub-sections (1) and (2) shall also apply to victims in so far as they are witnesses.

(4) In cases of extortionist bribe, if the bribe giver files a complaint, he shall be protected under this clause as a whistle blower:

Provided that this protection shall not be made available in case of speed money.

14. (1) The commercial entities shall make adequate procedures, as may be prescribed, designed to prevent persons associated with it from undertaking bribery.

(2) The procedures shall provide for commercial entities to establish and ensure the effectiveness of internal controls, ethics and compliance measures for preventing and detecting bribery and shall *inter alia*, include,—

(i) a clearly articulated and visible policy prohibiting bribery;

(ii) instructions for strict compliance with the policy at all levels of the entity;

(iii) appropriate disciplinary procedures to address violation of the procedures at all levels of the entity;

(iv) setting up independent monitoring body;

(v) oversight of ethics and compliance measures and reporting to the independent monitoring body;

(vi) ensuring applicability of the policy and procedures to third parties such as agents, intermediaries, consultants, representatives, distributors, partners, contractors, advisors, suppliers, associates, subsidiaries and joint venture partners and seeking commitment from such third parties to adhere to policy prohibiting bribery;

(vii) measures for periodic communication and training at all levels of the entity of laws against bribery and entity's policy against bribery; and

(viii) putting in place an appropriate whistle blower mechanism including rewards for reporting and protection of the whistle blowers.

15. (1) The banks, financial institutions and other financial intermediaries shall be required to take reasonable steps to determine the identity of beneficial owners of funds deposited into the accounts of such customers in such manner as may be prescribed.

(2) The banks, financial institutions and other financial intermediaries shall be required to maintain record of beneficial owners under sub-section (1) and shall provide such information as and when required by the adjudication authorities.

Ord. 38 of
1944.

2 of 1974.

Appeal and
revision.

Protection of
witnesses and
reporting
persons.

Prevention of
bribery by
commercial
entity.

Prevention and
detection of
proceeds of
crime.

Application of
other laws not
barred.

16. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make
rules.

17. The Central Government shall, by notification in the Official Gazette make rules to carry out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Corruption and black money have many dimensions. It is highly noticeable that the vices of the market tend to seek advantage of the weaknesses of the competitive democratic set up like ours. The situation has reached to alarming levels and more so in the wake of lack of effective legal mechanism to deal with the menace. The traditional anti-corruption laws are losing their teeth against the new threat from private sector. The United Nations Convention Against Corruption (UNCAC) has also identified certain gaps in our present anti-corruption mechanism. We don't have any act dealing with prevention of bribery in the private sector and Non-Governmental Organisations (NGOs). Our provisions also lack with regards to mispricing and valuation of contract and licenses etc., gratification and bribery through third party, lobbying and influencing through public policy debate, rules, regulation and guidelines to be implemented by private sector to check and control bribery and the bribing by foreign nationals. To tackle these issues effectively, specific legal provisions in the form of a Bill, namely, 'the Prevention of Bribery in private sector Bill, 2012' clearly defining all these terms and issues is being moved.

Hence, this Bill.

PRAKASH JAVADEKAR

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill.

Since the rules will relate to matters of details only, the delegation of legislation power is of a normal character.

XIII**BILL No. III OF 2012**

A Bill to provide for the development of solar power generation and mandatory use of solar power in the Government and Semi-Government buildings, corporate and business establishments in the Country with a view to saving conventional energy and protecting the environment and for matters connected therewith.

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

Short title,
extent,
commencement
and
applications.

1. (1) This Act may be called the Solar Power (Development, Promotion and Mandatory Use) Act, 2012.

(2) It extends to the whole of India except the State of Jammu and Kashmir, and applies also to all citizens of India domiciled in the territories to which this Act extends who are outsider in the said territories.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

(4) It shall be applicable to all Government and Semi-Government buildings and also to corporate and industrial houses, plants, and factories.

2. In this Act, unless the context otherwise requires,—

Definition.

(a) ‘appropriate Government’ means, in the case of State, the Government of that State, and in other cases, the Central Government.

(b) “Authority”, means the National Solar Power Development Authority of India, established under section 4 of this Act;

(c) ‘buildings’ include all such structures, sheds, houses and buildings notified under the rules framed by the appropriate Government under this Act;

(d) “prescribed” means prescribed by rules made under this act;

(e) “solar photovoltaic modules, panels and solar thermal collectors” mean flat or concentrating devices which collect, convert or store solar energy for use in the form of heat or electricity.

3. (1) It shall be obligatory for the owners, lessees, tenants, builders and promoters of every building, to install solar photovoltaic modules and panels, on the top of buildings and/or in the land forming part of the property, for generating electricity in order to meet a part of its total electricity requirement in such manner as may be prescribed.

Obligation for the owners, lessees, tenants, builders and promoters of buildings.

(2) It shall be obligatory for the owners, lessees, tenants, builders and promoters of every such building to install solar assisted water heating systems where there is a requirement of hot water.

(3) It shall be obligatory for the owners, lessees, tenants, builders and promoters of every new building, that requires mass cooking on regular basis, to maintain a solar-powered kitchen and other cooking facilities.

4. (1) For the purposes of this Act, the Central Government shall, by notification in the Official Gazette, establish an Authority, to be known as the National Solar Power Development Authority of India, with its headquarters at New Delhi.

Establishment of a National Solar Power Development Authority of India.

(2) The Authority may have such number of regional offices in any region or parts or in the States as may be required.

5. (1) The Authority shall be headed by a Chairperson and five other members to be appointed by the Central Government in such manner as may be prescribed.

Constitution of the Authority.

(2) The terms and conditions of the service of the Chairperson and the members shall be such as may be prescribed.

(3) The Authority shall have a Secretariat with such set up as may be prescribed.

(4) The Authority shall meet at such time and such places, and shall observe such procedure in regard to the transaction of business at its meetings as may be prescribed.

6. The Authority shall take such actions as may be necessary for the implementation of this Act including, *inter alia*, the following:—

Functions of the Authority.

(a) specify the categories and size of the buildings to be covered by the Act;

- (b) amendments to the building bye-laws so as to make it obligatory for the owners, contractors, builders and promoters of all new buildings to install solar thermal collectors and photovoltaic modules as specified in this Act;
- (c) specify the percentage of the total electricity requirements of a building to be met through solar energy;
- (d) specify the circumstances and technical grounds under which exemptions may be granted from the provisions of this Act;
- (e) make provisions for subsidies and other incentives for the installation of solar energy systems in new buildings as well as existing buildings; and
- (f) specify appropriate concessions like subsidies, exemption from various taxes, etc. for the solar energy equipment, in order to popularize and promote awareness among the people about the availability of solar thermal and photovoltaic products and the benefit arising from their use.

Central
Government to
provide funds.

7. The Central Government shall, after due appropriation made by law by Parliament, provide requisite funds for the purposes of this Act, from time to time.

Penalty.

8. Whoever contravenes the provisions of this Act, shall be liable to imprisonment which may extend to two years and fine of up to fifty thousand rupees.

Saving.

9. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make
rules.

10. The Central Government and the appropriate Government as the case may be, may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The Sun is the source of all energy. But for the Sun, life will not exist on the Earth. Naturally, from ancient times, the people worshipped the Sun as God. Needless to say, life will be impossible for the living organisms on this planet, without the energy from the Sun.

Today, for our energy requirements, we are using Coal, Oil and Natural Gas, Hydro-Energy and Nuclear Energy. Production of Hydro-electric power requires big dams, with an even bigger catchment area that causes environmental and collateral damage. Our coal reserves are expected to be not more than 100 billion tonnes. If, we continue to use coal the way we use it today, the entire coal reserves would be depleted in less than 100 years. The same is the case with Oil and Natural Gas resources, which are likely to be exhausted in a few decades.

After the Fukushima Nuclear Disaster in Japan in 2011, exploiting the potential of Nuclear Energy also deserves re-consideration. In any case, because of the huge investments and necessity of importing fissionable materials, we can't go in for the Nuclear Energy in a big way. In the case of the Nuclear Energy, even a minor nuclear disaster is unthinkable. Moreover, disposal of the nuclear waste is a real problem being faced even by the developed countries. The environmental hazards in all the aforesaid categories of energy sources are alarming. Whether it is Coal, Oil or Natural Gas, their exploitation will pollute the atmosphere, due to the generation of huge quantities of Carbon Dioxide, which will cause damage to the protective Ozone layer and will further contribute to climate change and global warming.

Considering all the above aspects, one comes to the natural conclusion that the safest and the best option is to change over to the most clean energy source *i.e.*, the Solar Energy. It is clear that the only long-term solution to our power requirements is harnessing the Solar Energy, which is in abundance in our country. India lies in the sunniest region in the world with most part of the country receiving sunlight everyday, the State of Rajasthan being the highest recipient of annual solar radiation. Thus, it is imperative that the Government must give top most priority for augmenting the generation of Solar Energy in the cheapest possible manner.

There is a huge potential for solar energy applications in grid-interactive solar power generation plants, solar thermal industrial applications, rural electrification, roof top-based applications and mobile towers in off-grid areas, and also for domestic lighting, cooking and water heating. Although the cost of initial installation is a little high, there is negligible recurring expenditure involved in maintaining the solar thermal modules sand photovoltaic panels. More importantly, there are also no problems of power-theft and long periods of load-shedding.

Keeping in view the rapid industrialization and urbanization of the country and the ever-increasing demand for domestic as well as industrial power, it is essential to make it mandatory for installation of solar power generators in all the Government and Semi-Government buildings and also in the Corporate and Industrial establishments across the country, with such terms and conditions as are necessary to substantially enhance production of Solar Power, with appropriate concessions like subsidies, exemption from various taxes, etc. for the Solar Power equipment, in order to encourage more and more people to voluntarily opt for this clean energy source.

Hence, this Bill.

P.J. KURIEN

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that Central Government shall establish the National Solar Power Development Authority of India for development and promotion of the use of the solar energy. Clause 6 of the Bill makes provision of subsidy and other incentives for installation of solar energy systems in new buildings as well as existing buildings. Clause 7 makes provisions for the Central Govt. to provide due requisite funds for carrying out the purposes of this Bill.

The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India. The recurring and non-recurring expenditure on this count cannot be estimated at this stage, but has to be worked out by the Central Government while implementing the provisions of the Act.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make appropriate rules for carrying out the provisions of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

XIV**BILL NO. XXXVII OF 2011**

A Bill to provide for the protection of farmers who are frequently affected by natural calamities and lose their crops, livestock, dwelling units, household items and foodgrains due to such calamities by paying them adequate compensation and for welfare measures such as old age pension, removal of indebtedness, remunerative prices for their produce to be undertaken by the State and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

- | | |
|---|--|
| <p>1. (1) This Act may be called the Farmers (Protection from Natural Calamities and Other Welfare Measures) Act, 2011.</p> <p>(2) It extends to the whole of India.</p> <p>(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.</p> <p>2. In this Act, unless the context otherwise requires,—</p> <p>(a) “appropriate Government” means in the case of a State the Government of that State and in other cases the Central Government;</p> <p>(b) “farmer” means a person who owns land or cultivates land for agricultural or horticultural purpose and includes the spouse of such a farmer;</p> <p>(c) “Fund” means the Farmers Welfare Fund established under section 5;</p> | <p>Short title and commencement.</p> <p>Definitions.</p> |
|---|--|

(d) "natural calamity" includes drought, floods, cyclones, tsunami, earthquakes, hailstorms, extreme cold conditions, and such other conditions as may be notified by the appropriate Government from time to time;

(e) "old age" means where the farmer has attained the age of sixty years or more;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "scheme" means the Farmers Credit Scheme framed under section 8.

Compensation
to farmers
affected by
natural
calamity.

3. (1) Notwithstanding anything contained in any other law for the time being in force, every farmer who has been affected by natural calamity by losing his crop, livestock, movable or immovable property shall be entitled to and shall be paid adequate compensation by the appropriate Government in accordance with the provisions of this Act.

(2) The amount of compensation, payable to a farmer affected by natural calamity shall be such as may be specified by the Central Government from time to time, by notification in the Official Gazette and while specifying the compensation, the total loss suffered by a farmer due to the natural calamity shall be taken into account.

(3) Every claimant for payment of compensation under this Act shall apply to the officer so appointed by the appropriate Government for the purpose in prescribed form giving such relevant information as may be prescribed:

Provided that a Village Panchayat may apply for compensation for all the affected farmers of the village and it shall be deemed that each farmer has applied for the compensation under this Act.

(4) Every claim for compensation under this Act shall be finalized and the payment made within thirty days of filing of the claim.

(5) The appropriate Government shall provide quality seeds, manure, fertilizers, etc. to every farmer who lost his crop due to natural calamity for restarting the agricultural operations.

Special
provisions with
regard to loans.

4. (1) Notwithstanding anything contained in any other law for the time being in force, it shall be mandatory for all the public, private and co-operative sector Banks and financial Institutions to provide loans on easy terms with nominal or without interest to the farmers affected by natural calamity to restart the agricultural operations and allied activities and to withstand the severity of the calamity and its aftermath.

(2) The Banks and Financial Institutions referred to in sub-section (1) shall also not recover the earlier loan given to the farmers by them who have been affected by natural calamity for at least one year after the calamity and the farmers shall not be denied fresh loans on this ground.

Establishment
of Farmers
Welfare Fund.

5. (1) The Central Government shall, as soon as may be, by notification in the Official Gazette establish the Farmers Welfare Fund for the purposes of this Act.

(2) The initial corpus of the Fund established under sub-section (1) shall be five thousand crore rupees of which four thousand crore rupees shall be provided by the Central Government, after due appropriation made by Parliament in this behalf and one thousand crore rupees shall be provided by the State Governments in proportion to their farmers population relevant for the purposes of this Act.

(3) After the intitial constitution of the Fund, moneys shall be provided to the Fund by the Central and State Governments in such proportions and in such manner as may be prescribed from time to time.

(4) The Fund shall also consist of moneys received from general public, body corporates, financial institutions, domestic and foreign, as donations, gifts, etc.

(5) The fund shall be utilized for the welfare of farmers in such manner as may be prescribed.

6. (1) The appropriate Government shall take such appropriate measures as it may deem necessary and expedient for the removal of indebtedness amongst the farmers and in particular shall endeavour to save them from the local moneylenders who exploit the farmers.

Removal of
Indebtedness
amongst the
farmers

(2) For the purposes of sub-section (1) the appropriate Government shall, endeavour to give remunerative prices and provide compulsory insurance for the produce of the farmers.

Old age
pension to
farmers.

7. (1) The appropriate Government shall, on an application made in the prescribed form, pay old age pension to every old farmers which shall not be less than one thousand rupees per month from the date of commencement of this Act:

Provided that the old age pension shall be subject to revision on the basis of prevailing price index.

(2) The old age pension payable under sub-section (1) shall be paid to the farmers by the appropriate Government in such manner as may be prescribed.

(3) Any farmers who is in receipt of any pension from the appropriate Government other than the one under this Act or is having adequate source of income shall forfeit his right to claim old age pension under this Act.

8. (1) The Central Government shall in consultation with the Government of the States, frame a scheme to be known as the "Farmers Credit Scheme" to be executed by Banks and Financial Institutions.

Farmers Credit
Scheme.

(2) The Scheme shall provide for,—

(a) the terms and conditions for extending credit to farmers;

(b) the extent to which the credit can be given and setting of previous loans taken, if any;

(c) the nominal interest that may be charged on farmers credit;

(d) the concessions which are to be given in respect of the credit in case of natural calamity;

(e) such other things which the Central Government may deem necessary for the purposes of this Act.

(3) The Central Government shall issue such guidelines to the Banks and Financial Institutions as it may deem necessary for carrying out the purposes of this Act.

9. The Central Government shall, after due appropriation made by law by Parliament in this behalf, provide the adequate funds at the disposal of the States for carrying out the purposes of this Act.

Central
Government to
provide
requisite funds.

10. The provisions of this Act, shall be in addition to and not in derogation of any other law for the time being in force in any part of the country dealing with the welfare of farmers.

Act to
supplement
other laws.

11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make
rules.

STATEMENT OF OBJECTS AND REASONS

Ours is a vast country and so is the number of farmers which is in crores and they constitute nearly seventy per cent of our total population. Due to its vastness, natural calamities do occur in one part or the other almost round the year. For instance, the whole of Rajasthan, parts of Gujarat, Maharashtra, Bihar, Uttar Pradesh, Jharkhand, Madhya Pradesh, Chhattisgarh, etc. are drought prone. Every year half of Bihar is flooded and the other half faces drought. Similarly, in Southern States, coastal areas are lashed with cyclones or even by tsunami whereas other parts face drought conditions. Many parts of the country face earthquake, hailstorm, cloud bursts, extreme cold conditions and other natural calamities. Farmers mostly bear the brunt of such natural calamities. They lose their crops, livestock and many a time their dwelling units and household items including foodgrains. Despite this, the farmers are hounded by the moneylenders to get back their money taken by the farmers hoping to repay after reaping the good harvest. But natural calamity dashes their hopes and with this, many of them end their lives. Thousands of farmers have committed suicide in recent years in Andhra Pradesh, Maharashtra, Punjab, Uttar Pradesh, Madhya Pradesh, Tamil Nadu, Karnataka, etc. It is a pity that our farming community is under indebtedness and it is a chronic and continuing problem for them which has to be removed through consistent efforts. Due to increase in life expectancy, the number of old farmers is increasing very fast and most of them are not supported by their children due to various reasons compelling them to lead a miserable life. Since ours is a welfare State, the Government is duty bound to provide social security to the farmers by giving them old age pension, remunerative prices and come to their rescue at times of distress by giving them adequate compensation if, they are affected by natural calamity and by taking other welfare measures.

Hence this Bill.

AVATAR SINGH KARIMPURI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the compensation to farmers affected by natural calamity. Clause 5 establishes Farmers Welfare Fund. Clause 7 provides for old age pension to farmers and Clause 9 provides that Central Government shall provide requisite and adequate funds to States for carrying out the purposes of the Bill. The Bill, if, enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five thousand crore may involve as recurring expenditure per annum. A non-recurring expenditure to the tune of rupees five hundred crore may also involve.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislative power is of normal character.

XV**BILL NO. XXXVI OF 2011**

A Bill to provide for proper care of senior citizens who are destitute, by their kith and kins and the Government and for protection of lonely or old couples by way of appropriate security measures by local police and for other welfare measures and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Destitute and Needy Senior Citizens (Care, Protection and Welfare) Act, 2011.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) it shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) "destitute senior citizen" means an old person who has become infirm due to old age or chronic ailment and who has no independent and adequate means of livelihood for his subsistence;

Duty of kith
and kins of
senior citizen.

(c) "prescribed" means prescribed by rules made under this Act;

(d) "senior citizen" means any person who has completed sixty years of age.

3. (1) Notwithstanding anything contained in any other law for the time being in force, it shall be the duty of the kith and kins of senior citizen to take care and support such citizen.

(2) The kith and kins of a senior citizen who fail to comply with the provisions contained in sub-section (1) shall forfeit their right to succeed the senior citizen in any manner after the death of such a senior citizen.

Explanation—For the purposes of sub-sections (1) and (2) the kith and kins include sons, daughters and other heirs and successors of the senior citizens.

Subsistence
allowance to
destitute senior
citizens.

4. (1) Every destitute senior citizens shall, on an application made in the prescribed form to the appropriate Government be paid rupees one thousand per mensem as subsistence allowance by such Government in whose jurisdiction such senior citizen permanently resides.

(2) The subsistence allowance referred to in sub-section (1) shall be subject to alteration on the basis of the prevailing price index as may be determined by the Central Government.

(3) The procedure to be followed in granting and payment of subsistence allowance under this Act shall be such as may be prescribed.

Establishment
of Senior
Citizen Homes.

5. (1) The appropriate Government shall establish such number of Senior Citizen Homes at conspicuous places, as it may deem necessary for board and lodging of needy senior citizens in such Homes.

(2) The appropriate Government shall provide all necessary facilities of daily life in each Senior Citizen Home for the benefit of senior citizens residing therein.

(3) The appropriate Government shall also provide free medical aid and means of entertainment to the inhabitants of the Homes established under sub-section (1).

(4) The senior citizens lodged in Senior Citizen Homes shall not be entitled to subsistence allowance referred to in section 4 of this Act.

Protection of
senior citizens
by local police.

6. (1) Notwithstanding anything contained in any other law for the time being in force, the local police of every district headquarter shall keep a record of senior citizens residing within its jurisdiction in such manner as may be prescribed.

(2) It shall be the duty of the area Station House Officer of the local police to,—

(a) verify the character and antecedents of the domestic servant or any domestic help engaged by any senior citizen or lonely old couple residing within his jurisdiction in such manner as may be prescribed; and

(b) provide adequate security to every lonely senior citizen or lonely old couple residing within his jurisdiction.

Other Welfare
measures to be
taken for senior
citizens.

7. The Appropriate Government shall also undertake the following welfare measures for the senior citizens, namely:—

(a) to provide financial assistance without interest or least minimal interest to attain financial freedom;

(b) to provide free medical and healthcare facilities;

(c) concessional travel by road, rail and air; and

(d) such other measures as may be prescribed.

Central
Government to
provide funds
for the purposes
of the Act.

8. The Central Government shall, after due appropriation made by Parliament in this behalf, provide adequate funds to the State Government for carrying out the purposes of this Act.

9. The provisions for this Act and rules made thereunder shall have effect, notwithstanding anything inconsistent therewith, contained in any other law for the time being in force, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to senior citizens.

Overriding effect of the Act.

10. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty.

Power to remove difficulties.

11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

With rising inflation and western influence in our country, senior citizens are being neglected. This is against our Indian culture and philosophy. We, as responsible citizens cannot be a mute spectator. With the increase in life expectancy, the number of senior citizens is increasing continuously. However, in many cities in the country thousands of old citizens living alone have been target of criminals and many have lost their lives due to peoples' greed. It is our duty to provide them with security both personal and financial for their welfare. These are the people who have contributed everything for the family, the society and the country. It is inhuman and unethical to neglect our senior citizens. They must be provided complete financial security including '*Roti, Kapra and Makaan*'. Not only this, they should also be provided with mental and psychological support.

Hence this Bill.

AVTAR SINGH KARIMPURI

FINANCIAL MEMORANDUM

Clause 4 (1) provides that appropriate Government shall give subsistence allowance to every destitute senior citizen, Clause 5 provides for the establishment of senior citizen homes and other facilities for the benefit of the destitute senior citizens residing in it. Clause 7 also provides for the other welfare measures to be taken for senior citizen by the appropriate Government. Clause 8 is related with the appropriation made by Parliament in this behalf to provide adequate funds for the purpose of the Act. The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees one thousand five hundred crore is likely to be involved from the Consolidated Fund of India. A non-recurring expenditure of about rupees one thousand crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purpose of the Bill. As the matters will relate to details only, the delegation of legislative power is of a normal character.

XVI**BILL NO. XLVI OF 2011**

A Bill further to amend the Indian Penal Code, 1860.

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

- | | |
|--|-------------------------------|
| 1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 2011.
(2) It shall come into force at once. | Short title and commencement. |
| 2. In section 279 of the Indian Penal Code, 1860 (hereinafter referred to as the principal Act), for the words “which may extend to six months, or with fine, which may extend to one thousand rupees or with both”, the words “which may extend to three years, or with fine, which may extend to ten thousand rupees or with both” shall be substituted. | Amendment of section 279. |
| 3. In section 284 of the principal Act for the words, “which may extend to six months, or with fine, which may extend to one thousand rupees or with both”, the words “which may extend to five years, or with fine, which may extend to twenty thousand rupees or with both” shall be substituted. | Amendment of section 284. |

Amendment of
section 304A.

4. In section 304A of the principal Act for the words "any rash or negligent act", the words "any rash or negligent act, except by any act of rash and negligent driving of motor vehicle," shall be substituted.

Insertion of new
section 304C.

5. After section 304B of the principal Act, the following new section shall be inserted, namely:—

Death due to
rash and
negligent
driving.

"304C. Whoever drives any motor vehicle, or rides, on any public place in a rash or negligent manner or drives or rides the motor vehicle under the influence of liquor so as to endanger human life, and causes death by his rash and negligent act, shall be committing the offence of murder and shall be punished with death or imprisonment for life and shall also be liable to fine which shall not be less than rupees one lakh.

Explanation: For the purpose of this section, the terms 'motor vehicle' and 'public place' shall have the same meanings as is assigned to them under the Motor Vehicles Act, 1988."

STATEMENT OF OBJECTS AND REASONS

The urbanization has resulted in rapid rise in the number of vehicles on the roads in our country. The high growth rate of public vehicles as well as private vehicles has made roads very unsafe for pedestrians and other road users. The problem is compounded by the people indulging in rash and negligent driving under the influence of liquor. In our country, lakhs of people die every year as a result of road accidents. This menace has assumed worrying proportions particularly in the metropolitan cities. The incidents of violating traffic signals and instructions, road rage, drunken driving etc., are very common and rising day by day.

There is considerable anger in the public about the rising number of road accidents. Under the present penal provisions, such offences are tried as general crimes 279, 284 and 304A of Indian Penal Code and punishment provided under sections for such acts is not proportionate to the gravity of the offence committed. In the absence of any stringent legal framework, the persons responsible for rash and negligent driving are let off easily. Similar is the case with those indulging in drunken driving. Person indulging in rash and negligent driving or drunken driving knowingly endanger the lives of fellow road users and therefore need to be treated harshly. Therefore, it is high time that a stringent law, which may act as a deterrent for such offences is brought forward by amending the Indian Penal Code, 1860.

Hence, this Bill.

NARENDRA KUMAR KASHYAP

V.K. AGNIHOTRI,
Secretary-General.